

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

Mary M. Black,	:	
	:	
Plaintiff	:	Civil Action No.:
	:	
vs.	:	COMPLAINT FOR DAMAGES
	:	UNDER THE FEDERAL TORT
	:	CLAIMS ACT
United States of America,	:	
	:	
Defendant	:	

COMPLAINT

Now comes Mary M. Black, and for cause of action against Defendant, United States of America, herein alleges, based on information and belief:

JURISDICTION AND VENUE

1.

This action is brought pursuant to the Federal Tort Claims Act (FTCA), 28 USC §§1346(b), 2671 et seq., against the United States of America, which vests inclusive subject matter jurisdiction of Federal Tort Claims Litigation in the Federal District Court.

2.

Venue is proper in the Middle District of Pennsylvania pursuant to 28 USC §§1391(b)(1) and/or 1391(b)(2), as well as 28 USC §1391(e)(1), because the United States is a Defendant and all acts and omissions forming the basis of these claims occurred in the Middle District of Pennsylvania.

PARTIES

3.

Plaintiff, Mary M. Black, is an adult individual living and residing at 2219 Blacks Glenn Court, Myersville, Maryland, 21773.

4.

At all relevant times, the Defendant, the United States of America, acted through its agency, The Department of Health and Human Services, which at all times relevant hereto, operated Keystone Rural Health Center, t/d/b/a Keystone Dental Care, 767 Fifth Avenue, Suite B-3A, Chambersburg, Franklin County, Pennsylvania, 17201.

**STATUTORY BASIS OF LIABILITY AGAINST
THE UNITED STATES OF AMERICA**

5.

This case is brought against the United States of America pursuant to 28 USC §2671 et seq., commonly referred to as the "Federal Tort Claims Act". Liability of the United States is predicated specifically on 28 USC §§1346(b)(1) and 2674 because the personal injuries and resulting damage that form the basis of this Complaint, were proximately caused by the negligence, wrongful acts and/or omissions of employees of the United States of America through its agency, The Department of Health and Human Services. These employees were acting within the course and scope of their employment, under circumstances where the United States of America, if a private person, would be liable to the Plaintiff in the same manner and to the same extent as a private individual under the laws of the Commonwealth of Pennsylvania.

6.

Pursuant to 28 USC §2675, the claim of Mary M. Black, was timely presented to the appropriate agency of Defendant, United States of America, namely the United States Department of Health and Human Services on October 8, 2015. The

claim was denied by the United States Department of Health and Human Services on February 22, 2017.

FACTUAL ALLEGATION

7.

Defendant, United States of America, including its directors, officers, operators, administrators, employees, agents, and staff at Keystone Rural Health Center, t/d/b/a Keystone Dental Care, collectively referred to as "Keystone Dental Care".

8.

At all times relevant to this Complaint, Keystone Dental Care held themselves out to the Plaintiff as a provider of high quality dental services, with the expertise necessary to maintain the health and safety of patients like the Mary M. Black.

9.

At all times relevant to the Complaint, Keystone Dental Care, the directors, officers, operators, administrators, employees, agents, and staff of Keystone Rural Health Center were employed by and/or acting on behalf of the Defendant. Furthermore, the Defendant is responsible for the negligent acts of its employees and agents under respondeat superior.

10.

On October 9, 2013, Plaintiff, Mary M. Black, underwent a root canal on tooth number 7 with the root canal performed by Nivea Sharma, DDS, of Keystone Dental Care.

11.

During the October 9, 2013 root canal, upon irrigation with sodium hypochlorite (bleach), the bleach was injected into adjacent tissues resulting in immediate severe pain and facial swelling.

12.

As a result of the inadvertent extrusion of bleach into the surrounding tissues, Plaintiff sustained traumatic facial nerve injuries resulting in tissue necrosis, scar tissue, parasthesia and permanent facial disfigurement.

13.

As a result of the injuries sustained by Plaintiff as above set forth, she has received medical attention and care rendered by the following medical providers on the dates indicated, and has incurred liability for the payment of bills for that medical attention and care in the sums indicated, which are reasonable and customary in the community where the Plaintiff was treated:

<u>Medical Provider</u>	<u>Dates of Treatment</u>	<u>Charge</u>
1. Meritus Medical Center 11116 Medical Campus Road Hagerstown, MD 21742	October 11, 2013	\$1,562.18
2. Jamal Ali, M.D. 1701 Howell Road Hagerstown, MD 21740-6638	October 23, 2013	\$310.00
3. Robinwood Pain Center 11110 Medical Campus Road Suite 225 Hagerstown, MD 21742	October 30, 2013	\$285.00
4. Total Rehab Care-Meritus Health 11110 Medical Campus Road Suite 201 Hagerstown, MD 21742	November 1, 2013 November 4, 2013 November 7, 2013	\$401.02
5. Jon A. Pike, DDS 1144 Opal Court Hagerstown, MD 21740	December 10, 2013 February 12, 2014	\$80.50 \$80.50
6. Cumberland Valley ENT Consultants 11110 Medical Campus Road Suite 126 Hagerstown, MD 21742	January 15, 2014	\$815.00

<u>Medical Provider</u>	<u>Dates of Treatment</u>	<u>Charge</u>
7. Parkway Neuroscience & Spine Institute 17 Western Maryland Parkway Suite 100 Hagerstown, MD 21740	June 27, 2014 July 18, 2014 August 19, 2014	\$437.00 \$298.00 \$846.25
8. James S. Albertoli, M.D. 11110 Medical Campus Road Suite 150 Hagerstown, MD 21742	August 6, 2014	\$225.00
9. Craig R. Dufresne, M.D. 8501 Arlington Blvd. Suite 420 Fairfax, VA 22031	October 1, 2014	\$323.00

14.

By reason of the injuries to Plaintiff sustained as above set forth, she will need additional medical attention and care in an amount now unknown.

15.

By reason of the injuries to the Plaintiff as above set forth, she has endured severe physical, emotional and mental pain, suffering and inconvenience, and will continue to endure physical, emotional and mental pain, suffering and inconvenience for a period of time now unknown.

16.

By reason of the injuries to the Plaintiff sustained as above set forth, she has suffered permanent facial disfigurement.

17.

The injuries sustained by the Plaintiff as above set forth, were solely and proximately caused by the negligence of the Defendant, through its agent, servant and employee, said negligence consisting of the following:

- A). Her failure to properly measure and monitor the drilling of tooth number 7;

B). Her failure to prevent the inadvertent extrusion of bleach into the surrounding tissues; and

C). In failing to use due care under the circumstances.

WHEREFORE, Plaintiff, Mary M. Black, prays for Judgment in her favor and against the Defendant, United States of America as follows:

A). For such compensatory damages occasioned by the negligent conduct of Defendant as may be proved at the trial of this cause including pain and suffering, past and future medical expenses incurred and to be incurred, for permanent facial disfigurement and for the lose of enjoyment and quality of life; and

B). For such other and further relief as the Court deems proper.

Respectfully submitted,

**DILORETO, COSENTINO
& BOLINGER PC**

Date: August 18, 2017

By 

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